

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)

Implementation of Section 309(j)
of the Communications Act -
Competitive Bidding)

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PP Docket No. 93-253

Amendment of the Commission's
Cellular PCS Cross-Ownership Rule)

GN Docket No. 90-314

Implementation of Sections 3(n) and 332
of the Communications Act
Regulatory Treatment of Mobile Services)

GN Docket No. 93-252

COMMENTS OF SPECTRUM RESOURCES, INC.

Spectrum Resources, Inc. ("SRI") hereby submits its comments in the above-captioned matter. SRI is an FCC licensee and system operator in the Commercial Mobile Radio Service, as well as a likely participant in the upcoming BTA auctions for PCS licenses to be held by the Commission. For this purpose, the principals of SRI, together with other individuals with experience in mobile communications, have formed a new entity, SRI PCS Resources, Inc. This company qualifies as both a minority-controlled Designated Entity under the Commission's current rules and a small business with revenues less than \$40 million.

SRI has reviewed the Commission's latest proposal in the instant proceeding, as contained in the Further Notice of Proposed Rulemaking dated June 23, 1995. In general, SRI is supportive of the proposed changes, which are justified in the name of expediting access to this service for both the public and would-be operators.

In particular, SRI supports the Commission's decision to move promptly forward with the proposed changes, as opposed to taking the time to develop the necessary studies to support a finding justifying special treatment for minorities and women. SRI does not believe that a record sufficient to meet the Supreme Court's strict scrutiny standard can be developed in time to avoid fatally injuring the chances of block "C" licensees to compete effectively against their block "A & B" counterparts. SRI also does not believe there are ways to modify the Commission's rules to comply with the strict scrutiny standard and still avoid a significant delay in the "C" block auction.

SRI supports the Commission's proposed changes to allow minorities to retain the 50.1/49.9 percent equity structure, even at the cost of opening this vehicle up to additional non-minority entrants. While SRI is not in a position to comment on the plans of others, we can state that this approach will cause a minimum of disruption in SRI's own plans, and that this disruption is easily justified by the increase in certainty and the acceleration of the process that will result from taking this action.

SRI supports the continued collection of minority status information as part of the FCC's bidding and licensing process, for the reasons mentioned in the Notice. In addition, this information could prove to be of value in supporting the Commission's actions in any ensuing litigation.

SRI understands the Commission's rationale for eliminating the exception it had crafted to the affiliation rules, which allowed minority investors who were members of the control group to not have the revenues and assets of their affiliates attributed for eligibility purposes. However, SRI would like to suggest an alternative proposal that may somewhat mitigate the effect of the proposed change. Under SRI's concept, investors who have affiliates with assets or revenues

sufficiently large to disqualify a small business applicant would still be allowed to invest in the applicant if their investment was capped at a relatively low level, such as \$100,000. This would have the effect of increasing the pool of investors available to small business applicants, a pool whose size appears to be diminishing rapidly. More importantly, it would allow small business applicants the flexibility to include a few wealthy investors who invest comparable amounts of funds as other investors, and yet still preserve the applicant's option to bring in a large (49.9% equity) investor at a later stage, such as after the conclusion of the auction. (Under the current Commission rules, the first such investor would "use up" the applicant's 49.9% equity investor option, even if he or she is only investing a small amount of funds.) Because of the relatively low limit on the amount that could be invested under this proposal, the applicant will remain a truly independent small business entity, thus furthering the Commission's goals in this proceeding.

SRI also supports the Commission's proposals to offer small business applicants the same installment plan and bidding credits available to minorities and women under the current rules. This will have no impact on most minority and women controlled applicants, except for perhaps a slight increase in the number of bidders. We likewise support the changes to the spectrum aggregation rules, which will bring the Commission's rules into compliance with "Adarand", yet still have little effect on women- and minority-controlled applicants.

In conclusion, even though the proposed rules may have a slight negative effect on SRI by introducing additional competition into the bidding process, and conceptually diminishing somewhat the number of successful minority and women bidders, SRI supports the Commission's proposal. In light of the Supreme Court's recent decision, we believe that the Commission is proposing a reasonable and viable set of rules, which will not result in undue delay in the auction

process. The minor change proposed herein by SRI would only make the rules more appealing to small businesses, including those owned by minorities and women.

Respectfully Submitted,

SPECTRUM RESOURCES, INC.

By:



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